

Amendment and Response

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Serial No.: 10/072,512

Confirmation No.: 2889

Filed: 7 February 2002

For: DOSING DEVICE

Remarks

The Office Action mailed 16 November 2005 has been received and reviewed. Claim 2 has been amended and new claims 16-24 presented, leaving claims 2, 4-13, and 16-24 pending in the present application. Reconsideration and withdrawal of the rejections in view of the above amendments and the following comments are respectfully requested.

Specification

The specification has been amended to include brief descriptions of Figures 3a and 5 previously submitted on October 27, 2003 and approved by the Examiner in the Office Action dated December 16, 2003.

Applicants submit that these amendments are supported by the application as filed at, e.g., pages 3-5, the drawings as originally filed, and original claims 2 and 11.

Approval and entry of these amendments are respectfully requested.

New Claims 16-24

Applicants note that claim 8 was indicated as allowable if rewritten to include the limitations of its base and any intervening claims. New independent claim 16 recites all of the limitations of previously presented claim 2 (before the amendments presented in this response) and claim 8. New claims 17-24 all depend from new claim 16 and are corollaries of original claims 4-7, 9-11, and 13.

As a result, Applicants respectfully submit that new claims 16-24 are in condition for allowance as presented herein. Notification to that effect is respectfully requested.

The 35 U.S.C. §102 Rejection

Claims 1, 4-7, and 12-13 were rejected under 35 U.S.C. §102(b) as being anticipated by Sonntag (U.S. Patent No. 4,974,755). Applicants note that claim 1 was canceled in the previous

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response (filed March 11, 2004). In view of the Office Action Summary Sheet and the text of the rejection, Applicants believe that the Examiner intended to indicate that claim 2, not claim 1, is rejected. Confirmation of this assumption is respectfully requested.

Under the assumption that the Examiner intended to reject claims 2, 4-7, and 12-13 under 35 U.S.C. §102(b) as being anticipated by Sonntag, Applicants respectfully traverse this rejection.

For a claim to be anticipated under 35 U.S.C. § 102(b), each and every element of the claim must be found in a single prior art reference (M.P.E.P. §2131). Applicants respectfully submit that Sonntag fails to teach each and every element of claims 2, 4-7, and 12-13.

As recited in amended claim 2, the dosing device includes, among other things, a shuttle that moves within the dosing chamber between first, second and third positions.

In contrast, the valve element 100 ("shuttle") of Sonntag is positioned and moves in a portion of the device that is outside of the metering cylinder 16 ("dosing chamber"). *See, e.g., Sonntag*, col. 6, line 6 to col. 7, line 20. As a result, the shuttle of Sonntag does not move within the dosing chamber of Sonntag as recited in amended claim 2.

For at least the above reason, Applicants submit that claim 2 is not anticipated by Sonntag. Furthermore, because claims 4-7 and 12-13 are directly or ultimately dependent on claim 2, claims 4-7 and 12-13 are also novel in view of Sonntag.

Reconsideration and withdrawal of the anticipation rejection of claims 2, 4-7 and 12-13 over Sonntag are respectfully requested.

The 35 U.S.C. §103 Rejections

Claims 9-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sonntag (U.S. Patent No. 4,974,755) in view of Sedam (U.S. Patent No. 4,703,870).

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sonntag (U.S. Patent No. 4,974,755) in view of Byrd et al. (U.S. Patent No. 3,865,281).

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Applicants respectfully traverse the above rejections.

To support a *prima facie* case of obviousness, the Examiner must establish that there is a motivation to combine the cited documents (or modify the teachings of a document) to achieve the claimed invention, with a reasonable expectation of success. Further, the references must teach or suggest every element of the claimed invention. For at least the reasons set forth below, it is respectfully submitted that the Examiner has failed to make the requisite showing of a *prima facie* case of obviousness.

As noted above, Sonntag does not teach all of the elements of claim 2. Applicants submit that Sonntag also does not suggest all of the elements of claim 2. Furthermore, the secondary references cited in support of the obviousness rejections of claims 9-11 do not address the shortcomings of Sonntag. Applicants also respectfully submit that no motivation or suggestion to modify Sonntag in view of either reference to meet the limitations of the claims rejected under § 103 has been presented -- as would be required for a case of *prima facie* obviousness.

As a result, reconsideration and withdrawal of the obviousness rejections of claims 9-11 are respectfully requested.

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Summary

It is respectfully submitted that the pending claims 2, 4-13, and 16-24 are in condition for allowance and notification to that effect is respectfully requested.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

Mueting, Raasch & Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612) 305-1220

Facsimile: (612) 305-1228

16 FEB. 2006
Date

By: 

Kevin W. Raasch

Reg. No. 35,651

Direct Dial (612) 305-1218

CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of February, 2006, at 3:20 PM (Central Time).

By: Name: KEVIN W. RAASCH